



IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.7295 of 2025

Samir Kok

.....

Petitioner

Represented By Adv. -
Shashi Bhusan Jena

-versus-

State Of Odisha & Ors.

.....

Opposite Parties

Represented By Adv. –
D.K. Sahoo, A.G.A.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
25.03.2025

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate for the State-Opposite Parties. Perused the writ application as well as the documents annexed thereto.

3. The Petitioner has filed the present writ application with the following prayer:

“Under the abovementioned facts and circumstances of the case, this Hon'ble Court may graciously be pleased to quash the letter no.15332 dated.07.11.2024 under Annexure-9.

And further be pleased to direct the Opp.Parties to reconsider the case of the petitioner for appointment under R.A.Scheme under OCS (RA) Rules, 2020 by condoning the delay, if any.

Or pass any other order/orders as this Hon'ble Court



may deem think fit and proper.”

4. Learned counsel for the Petitioner at the outset contended that the father of the Petitioner was earlier appointed as a Sweeper (Group-D post) on contractual basis under Rehabilitation Assistance Scheme vide memo dated 02.08.2019. While the father of the petitioner was working as a Sweeper, he died in harness on 01.05.2022 leaving behind the present Petitioner and other legal heirs including his wife. Learned counsel for the Petitioner further contended that at the time of the death of the deceased employee, the Petitioner was aged about 17 years. On attaining the age of majority, the Petitioner submitted an application for compassionate appointment on 17.08.2024 under Annexure-5. He further contended that since the mother of the Petitioner is a disabled person, she was unable to discharge the duties. With the consent of his mother, the Petitioner submitted an application for appointment on compassionate ground. He further contended that the other family members, who are the legal heirs of the deceased employee, have given their consent by filing an affidavit in support of the claim of the present Petitioner before the authority.

5. While the matter stood thus, the Opposite Party No.3 vide letter dated 07.11.2024 mechanically rejected the application of the Petitioner under Rule-7(5) of the OCS (RA) Rules, 2020. At this juncture, learned counsel for the Petitioner contended that the Rule-7(4) of the OCS (RA) Rules, 2020 provides for condonation of delay by the Govt. i.e. in the event an application is filed beyond the period of limitation, such application is to be forwarded to the Govt. for condonation of delay. However, in the instant case, without following the procedure laid down in Rule-7(4) of the OCS (RA) Rules, 2020,



the Opposite Parties have rejected the application of the Petitioner mechanically without sending the application for consideration to the Govt. for condonation of delay. In such view of the matter, learned counsel for the petitioner submitted that the rejection of the application of the petitioner on the ground of delay is contrary to the provisions contained in the OCS (RA) Rules, 2020. On such ground, learned counsel for the petitioner contended that the impugned rejection order under Annexure-9 dated 07.11.2024 is legally unsustainable.

6. Learned Additional Government Advocate on the other hand contended that although he does not have any specific instruction in the matter, however, taking into consideration the fact pleaded in the present writ application, it appears that the application of the Petitioner was duly considered by the Opposite Parties. He further contended that after considering the application of the Petitioner, the Opposite Parties vide order dated 07.11.2024, under Annexure-9, have rejected the application of the Petitioner. As such, the impugned order under Annexure-9 does not call for any interference by this Court at this stage.

7. Having heard the learned counsels appearing for the respective parties, on a careful analysis of the submissions, further keeping in view the factual background of the present case, further taking note of the manner in which the application for appointment on compassionate ground of the Petitioner has been dealt with by the Opposite Parties, particularly, the application for condonation of delay, this Court is of the view that such application has not been dealt with in terms of the provisions contained in Rule-7(4) of the OCS (RA) Rules, 2020. It is further observed that the Opposite Party



No.3, the Appointing Authority, should have forwarded the application for condonation of delay to the Govt. considering the fact that the Petitioner was a minor at the time of death of his father, therefore, he could not have applied for appointment on compassionate ground. Moreover, the mother of the Petitioner, who is a disabled person, is also not eligible for such appointment. In the aforesaid factual backdrop, this Court is of the view that the impugned rejection order dated 07.11.2024 under Annexure-9 has been passed without considering the application of the Petitioner in terms of the OCS(RA) Rules, 2020. Accordingly, the impugned rejection order dated 07.11.2024 under Annexure-9 is hereby quashed. Further, the matter is remanded back to the Opposite Party No.3 to consider the matter afresh, particularly, in terms of Rule-7(4) of the OCS(RA) Rules, 2020.

8. In view of the aforesaid observations and directions, the writ application is being disposed of with a direction to the Opposite Party No.3 to consider the application of the Petitioner afresh in terms of the applicable rules within three months from the date of communication of a certified copy of this order by the Petitioner. The final decision so taken by the Opposite Party No.3 be also communicated to the Petitioner within ten days from the date of taking such a decision.

9. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR
SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 26-Mar-2025 12:30:28